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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,315	12/21/2000	Szu-Min Lin	ASP-14	5885

7590

02/05/2003

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EXAMINER

CROSS, LATOYA I

ART UNIT

PAPER NUMBER

1743

9

DATE MAILED: 02/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/742,315

Applicant(s)

LIN ET AL.

Examiner

LaToya I. Cross

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6-10, 15-17 and 22 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 5, 11-14, 18-21, 23 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This Office Action is in response to Applicants' remarks filed November 12, 2002 and entered as Paper No. 7. Claims 1-24 are pending.

#### ***Withdrawal of Rejections from Previous Office Action***

- The rejection of claims 1-24 under obviousness type double patenting is withdrawn in view of Applicants' timely filed Terminal Disclaimer dated November 12, 2002.
- The rejection of claims 1-24 under 35 USC 102(e) over Lin et al is withdrawn in view of Applicants' argument that the reference is not prior art since its filing date of the reference is concurrent with Applicants' claimed priority date.

#### ***Terminal Disclaimer***

1. The terminal disclaimer filed on November 12, 2002 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent 6,193,931 has been reviewed and is accepted. The terminal disclaimer has been recorded.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-10, 15-17 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4,636,472 to Brusio.

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Bruso teaches a sterilization test pack. The test pack comprises several pads (20, 30, 40) disposed around a biological indicator (26) and/or a chemical indicator (24). The pads are gas permeable allowing gas to pass through to the indicators along the edges of the pack. The cavity where the biological and/or chemical indicators are located is equivalent to Applicants' second space. The pads and indicators are formed into a stack and are surrounded by CSR wrap. The pack is placed into sterilization equipment (12), shown in figure 1. Steam, an anti-microbial source, flows into the sterilization equipment, presumably through the inlet pictured and sterilizes the articles (14) present. The space containing the articles is equivalent to Applicants' first space. The first space is detachable from the second space since the test pack can be removed from the sterilization equipment. The anti-microbial source (here steam) flows through the first space and then contacts the indicator located inside the test pack and inside the second space, as recited in claim 1. The efficacy of the sterilization process is determined by examining the indicators, as recited in claims 15-17.

Therefore, for the reasons set forth above, Applicants' claimed invention is deemed to be anticipated by Bruso.

### ***Allowable Subject Matter***

4. Claims 5, 11-14, 8-21, 23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fails to teach or suggest a flow restriction between the first and second space or hydrogen peroxide is used as the antimicrobial agent. Further, there is no teaching or suggestion of a fan to assist in flow or the first subspaces that are detachable from the container. The Examiner suggests that Applicant

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incorporate the limitations of claim 5 into the independent to advance the prosecution of this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 703-305-7360. The examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 703-308-4037. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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January 27, 2003

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700